
SENATE BILL 6550

State of Washington

60th Legislature

2008 Regular Session

By Senator Roach

Read first time 01/18/08. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to repealing the special sex offender sentencing
2 alternative; amending RCW 9.94A.505, 9.94A.575, and 18.155.030;
3 reenacting and amending RCW 9.94A.715 and 18.155.010; and repealing RCW
4 9.94A.670.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** RCW 9.94A.670 (Special sex offender
7 sentencing alternative) and 2006 c 133 s 1 are each repealed.

8 **Sec. 2.** RCW 9.94A.505 and 2006 c 73 s 6 are each amended to read
9 as follows:

10 (1) When a person is convicted of a felony, the court shall impose
11 punishment as provided in this chapter.

12 (2)(a) The court shall impose a sentence as provided in the
13 following sections and as applicable in the case:

14 (i) Unless another term of confinement applies, the court shall
15 impose a sentence within the standard sentence range established in RCW
16 9.94A.510 or 9.94A.517;

17 (ii) RCW 9.94A.700 and 9.94A.705, relating to community placement;

18 (iii) RCW 9.94A.710 and 9.94A.715, relating to community custody;

1 (iv) RCW 9.94A.545, relating to community custody for offenders
2 whose term of confinement is one year or less;

3 (v) RCW 9.94A.570, relating to persistent offenders;

4 (vi) RCW 9.94A.540, relating to mandatory minimum terms;

5 (vii) RCW 9.94A.650, relating to the first-time offender waiver;

6 (viii) RCW 9.94A.660, relating to the drug offender sentencing
7 alternative;

8 ~~(ix) ((RCW 9.94A.670, relating to the special sex offender
9 sentencing alternative;~~

10 ~~(x))~~ RCW 9.94A.712, relating to certain sex offenses;

11 ~~((x))~~ (x) RCW 9.94A.535, relating to exceptional sentences;

12 ~~((xii))~~ (xi) RCW 9.94A.589, relating to consecutive and
13 concurrent sentences;

14 ~~((xiii))~~ (xii) RCW 9.94A.603, relating to felony driving while
15 under the influence of intoxicating liquor or any drug and felony
16 physical control of a vehicle while under the influence of intoxicating
17 liquor or any drug.

18 (b) If a standard sentence range has not been established for the
19 offender's crime, the court shall impose a determinate sentence which
20 may include not more than one year of confinement; community
21 restitution work; until July 1, 2000, a term of community supervision
22 not to exceed one year and on and after July 1, 2000, a term of
23 community custody not to exceed one year, subject to conditions and
24 sanctions as authorized in RCW 9.94A.710 (2) and (3); and/or other
25 legal financial obligations. The court may impose a sentence which
26 provides more than one year of confinement if the court finds reasons
27 justifying an exceptional sentence as provided in RCW 9.94A.535.

28 (3) If the court imposes a sentence requiring confinement of thirty
29 days or less, the court may, in its discretion, specify that the
30 sentence be served on consecutive or intermittent days. A sentence
31 requiring more than thirty days of confinement shall be served on
32 consecutive days. Local jail administrators may schedule court-ordered
33 intermittent sentences as space permits.

34 (4) If a sentence imposed includes payment of a legal financial
35 obligation, it shall be imposed as provided in RCW 9.94A.750,
36 9.94A.753, 9.94A.760, and 43.43.7541.

37 (5) Except as provided under RCW 9.94A.750(4) and 9.94A.753(4), a
38 court may not impose a sentence providing for a term of confinement or

1 community supervision, community placement, or community custody which
2 exceeds the statutory maximum for the crime as provided in chapter
3 9A.20 RCW.

4 (6) The sentencing court shall give the offender credit for all
5 confinement time served before the sentencing if that confinement was
6 solely in regard to the offense for which the offender is being
7 sentenced.

8 (7) The court shall order restitution as provided in RCW 9.94A.750
9 and 9.94A.753.

10 (8) As a part of any sentence, the court may impose and enforce
11 crime-related prohibitions and affirmative conditions as provided in
12 this chapter.

13 (9) The court may order an offender whose sentence includes
14 community placement or community supervision to undergo a mental status
15 evaluation and to participate in available outpatient mental health
16 treatment, if the court finds that reasonable grounds exist to believe
17 that the offender is a mentally ill person as defined in RCW 71.24.025,
18 and that this condition is likely to have influenced the offense. An
19 order requiring mental status evaluation or treatment must be based on
20 a presentence report and, if applicable, mental status evaluations that
21 have been filed with the court to determine the offender's competency
22 or eligibility for a defense of insanity. The court may order
23 additional evaluations at a later date if deemed appropriate.

24 (10) In any sentence of partial confinement, the court may require
25 the offender to serve the partial confinement in work release, in a
26 program of home detention, on work crew, or in a combined program of
27 work crew and home detention.

28 (11) In sentencing an offender convicted of a crime of domestic
29 violence, as defined in RCW 10.99.020, if the offender has a minor
30 child, or if the victim of the offense for which the offender was
31 convicted has a minor child, the court may, as part of any term of
32 community supervision, community placement, or community custody, order
33 the offender to participate in a domestic violence perpetrator program
34 approved under RCW 26.50.150.

35 **Sec. 3.** RCW 9.94A.575 and 2000 c 28 s 9 are each amended to read
36 as follows:

37 The power to defer or suspend the imposition or execution of

1 sentence is hereby abolished in respect to sentences prescribed for
2 felonies committed after June 30, 1984(~~(, except for offenders~~
3 ~~sentenced under RCW 9.94A.670, the special sex offender sentencing~~
4 ~~alternative, whose sentence may be suspended)~~).

5 **Sec. 4.** RCW 9.94A.715 and 2006 c 130 s 2 and 2006 c 128 s 5 are
6 each reenacted and amended to read as follows:

7 (1) When a court sentences a person to the custody of the
8 department for a sex offense not sentenced under RCW 9.94A.712, a
9 violent offense, any crime against persons under RCW 9.94A.411(2), or
10 a felony offense under chapter 69.50 or 69.52 RCW, committed on or
11 after July 1, 2000, or when a court sentences a person to a term of
12 confinement of one year or less for a violation of RCW
13 9A.44.130(~~(+10)~~) (11)(a) committed on or after June 7, 2006, the court
14 shall in addition to the other terms of the sentence, sentence the
15 offender to community custody for the community custody range
16 established under RCW 9.94A.850 or up to the period of earned release
17 awarded pursuant to RCW 9.94A.728 (1) and (2), whichever is longer.
18 The community custody shall begin: (a) Upon completion of the term of
19 confinement; (b) at such time as the offender is transferred to
20 community custody in lieu of earned release in accordance with RCW
21 9.94A.728 (1) and (2); or (c) with regard to offenders sentenced under
22 RCW 9.94A.660, upon failure to complete or administrative termination
23 from the special drug offender sentencing alternative program. Except
24 as provided in RCW 9.94A.501, the department shall supervise any
25 sentence of community custody imposed under this section.

26 (2)(a) Unless a condition is waived by the court, the conditions of
27 community custody shall include those provided for in RCW 9.94A.700(4).
28 The conditions may also include those provided for in RCW 9.94A.700(5).
29 The court may also order the offender to participate in rehabilitative
30 programs or otherwise perform affirmative conduct reasonably related to
31 the circumstances of the offense, the offender's risk of reoffending,
32 or the safety of the community, and the department shall enforce such
33 conditions pursuant to subsection (6) of this section.

34 (b) As part of any sentence that includes a term of community
35 custody imposed under this subsection, the court shall also require the
36 offender to comply with any conditions imposed by the department under
37 RCW 9.94A.720. The department shall assess the offender's risk of

1 reoffense and may establish and modify additional conditions of the
2 offender's community custody based upon the risk to community safety.
3 In addition, the department may require the offender to participate in
4 rehabilitative programs, or otherwise perform affirmative conduct, and
5 to obey all laws. The department may impose electronic monitoring as
6 a condition of community custody for an offender sentenced to a term of
7 community custody under this section pursuant to a conviction for a sex
8 offense. Within the resources made available by the department for
9 this purpose, the department shall carry out any electronic monitoring
10 imposed under this section using the most appropriate technology given
11 the individual circumstances of the offender. As used in this section,
12 "electronic monitoring" means the monitoring of an offender using an
13 electronic offender tracking system including, but not limited to, a
14 system using radio frequency or active or passive global positioning
15 system technology.

16 (c) The department may not impose conditions that are contrary to
17 those ordered by the court and may not contravene or decrease court
18 imposed conditions. The department shall notify the offender in
19 writing of any such conditions or modifications. In setting,
20 modifying, and enforcing conditions of community custody, the
21 department shall be deemed to be performing a quasi-judicial function.

22 (3) If an offender violates conditions imposed by the court or the
23 department pursuant to this section during community custody, the
24 department may transfer the offender to a more restrictive confinement
25 status and impose other available sanctions as provided in RCW
26 9.94A.737 and 9.94A.740.

27 (4) (~~Except for terms of community custody under RCW 9.94A.670,~~)
28 The department shall discharge the offender from community custody on
29 a date determined by the department, which the department may modify,
30 based on risk and performance of the offender, within the range or at
31 the end of the period of earned release, whichever is later.

32 (5) At any time prior to the completion or termination of a sex
33 offender's term of community custody, if the court finds that public
34 safety would be enhanced, the court may impose and enforce an order
35 extending any or all of the conditions imposed pursuant to this section
36 for a period up to the maximum allowable sentence for the crime as it
37 is classified in chapter 9A.20 RCW, regardless of the expiration of the
38 offender's term of community custody. If a violation of a condition

1 extended under this subsection occurs after the expiration of the
2 offender's term of community custody, it shall be deemed a violation of
3 the sentence for the purposes of RCW 9.94A.631 and may be punishable as
4 contempt of court as provided for in RCW 7.21.040. If the court
5 extends a condition beyond the expiration of the term of community
6 custody, the department is not responsible for supervision of the
7 offender's compliance with the condition.

8 (6) Within the funds available for community custody, the
9 department shall determine conditions and duration of community custody
10 on the basis of risk to community safety, and shall supervise offenders
11 during community custody on the basis of risk to community safety and
12 conditions imposed by the court. The secretary shall adopt rules to
13 implement the provisions of this subsection.

14 (7) By the close of the next business day after receiving notice of
15 a condition imposed or modified by the department, an offender may
16 request an administrative review under rules adopted by the department.
17 The condition shall remain in effect unless the reviewing officer finds
18 that it is not reasonably related to any of the following: (a) The
19 crime of conviction; (b) the offender's risk of reoffending; or (c) the
20 safety of the community.

21 **Sec. 5.** RCW 18.155.010 and 2000 c 171 s 32 and 2000 c 28 s 37 are
22 each reenacted and amended to read as follows:

23 The legislature finds that sex offender therapists (~~who examine~~
24 ~~and treat sex offenders pursuant to the special sexual offender~~
25 ~~sentencing alternative under RCW 9.94A.670 and~~) who may treat juvenile
26 sex offenders pursuant to RCW 13.40.160(~~(7)~~) play a vital role in
27 protecting the public from sex offenders who remain in the community
28 following conviction. The legislature finds that the qualifications,
29 practices, techniques, and effectiveness of sex offender treatment
30 providers vary widely and that the court's ability to effectively
31 determine the appropriateness of granting the sentencing alternative
32 and monitoring the offender to ensure continued protection of the
33 community is undermined by a lack of regulated practices. The
34 legislature recognizes the right of sex offender therapists to
35 practice, consistent with the paramount requirements of public safety.
36 Public safety is best served by regulating sex offender therapists
37 whose clients are being evaluated and being treated pursuant to RCW

1 ((~~9.94A.670~~ and)) 13.40.160. This chapter shall be construed to
2 require only those sex offender therapists who examine and treat sex
3 offenders pursuant to RCW ((~~9.94A.670~~ and)) 13.40.160 to obtain a
4 sexual offender treatment certification as provided in this chapter.

5 **Sec. 6.** RCW 18.155.030 and 2004 c 38 s 4 are each amended to read
6 as follows:

7 (1) No person shall represent himself or herself as a certified sex
8 offender treatment provider or certified affiliate sex offender
9 treatment provider without first applying for and receiving a
10 certificate pursuant to this chapter.

11 (2) Only a certified sex offender treatment provider, or certified
12 affiliate sex offender treatment provider who has completed at least
13 fifty percent of the required hours under the supervision of a
14 certified sex offender treatment provider, may perform or provide the
15 following services:

16 (a) Evaluations conducted for the purposes of and pursuant to RCW
17 ((~~9.94A.670~~ and)) 13.40.160;

18 (b) Treatment of convicted level III sex offenders who are
19 sentenced and ordered into treatment pursuant to chapter 9.94A RCW and
20 adjudicated level III juvenile sex offenders who are ordered into
21 treatment pursuant to chapter 13.40 RCW;

22 (c) Except as provided under subsection (3) of this section,
23 treatment of sexually violent predators who are conditionally released
24 to a less restrictive alternative pursuant to chapter 71.09 RCW.

25 (3) A certified sex offender treatment provider, or certified
26 affiliate sex offender treatment provider who has completed at least
27 fifty percent of the required hours under the supervision of a
28 certified sex offender treatment provider, may not perform or provide
29 treatment of sexually violent predators under subsection (2)(c) of this
30 section if the treatment provider has been:

31 (a) Convicted of a sex offense, as defined in RCW 9.94A.030;

32 (b) Convicted in any other jurisdiction of an offense that under
33 the laws of this state would be classified as a sex offense as defined
34 in RCW 9.94A.030; or

35 (c) Suspended or otherwise restricted from practicing any health
36 care profession by competent authority in any state, federal, or
37 foreign jurisdiction.

1 (4) Certified sex offender treatment providers and certified
2 affiliate sex offender treatment providers may perform or provide the
3 following service: Treatment of convicted level I and level II sex
4 offenders who are sentenced and ordered into treatment pursuant to
5 chapter 9.94A RCW and adjudicated juvenile level I and level II sex
6 offenders who are sentenced and ordered into treatment pursuant to
7 chapter 13.40 RCW.

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